IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6427 OF 2003

Shri Anil Maruti Mane. ...Petitioner
V/s.
Shri Jaysing Tukaram Mane & Ors. ...Respondents

Shri Umesh Mankapure for Ranjit V. More for Petitioner.
Mr.Dilip Bodke for Respondents.

CORAM : D.B. BHOSALE, J.

DATED : NOVEMBER 30, 2005

P.C. :-

. Heard learned Counsel for the parties.

. This petition is directed against the Judgement and Order dated 30th August, 2003 rendered by Second Additional District Judge, Sangli in Misc.Civil Appeal No.227/2000 allowing the appeal and setting aside the Judgment and Order passed by the trial Court dated 29th November, 2000 below Exhibit 5-Application in Regular Civil Suit No.167/2000. The trial Court by that order had injuncted respondents/defendants no.1 to 3 from obstructing the petitioner/plaintiff’s possession in the suit land till the disposal of the suit. There was one earlier round of litigation in which the order of the

trial Court dated 29th November, 2000 was challenged before the appeal court by the respondent, which allowed the said appeal and set aside the order of the trial Court. The petitioner had filed Civil Revision Application No.1691/2001 in this Court challenging the order passed by the Appeal Court dated 17th September, 2001. This Court vide Order dated 6th February, 2002 had allowed the revision and remanded the matter to the learned Additional District Judge, Sangli, for its consideration and for passing orders on the Misc.Civil Appeal afresh which came to be restored to file by that order. On remand the appeal court allowed the appeal vide order dated 30th August, 2003, which is impugned in the instant petition. This Court while issuing Rule on 30th September, 2003 granted ad-interim relief in terms of prayer clauses (c) and (d). Prayer clauses (c) and (d) reads thus :-

> "(c). Pending the hearing and final disposal of this Writ Petition this Hon’ble Court be pleased to grant an injunction restraining the Respondents, their agent/subordinate/servant

and/or anybody claiming through them from obstructing the peaceful possession of the petitioner over the suit properties.

(d). Pending the hearing and final disposal of present writ petition this Hon'ble High Court be pleased to grant stay to the execution, operation and implementation of the Judgment and order dated 30.08.2003 passed by the Learned IInd Additional District Judge, Sangli in Misc.Civil Appeal No.227 of 2002."

2. The aforestated chronology of events demonstrates that the interim injunction has been running against the respondents/defendants since 29th November, 2000. No efforts whatsoever were made by the respondents for getting the interim order vacated till this date. The learned Counsel for the parties have no instructions as to whether the suit is still pending. Keeping that in view and considering the overall facts and circumstances of the case, in my opinion, merits of the case need not be examined at this stage and the

interest of justice would be served by the following Order :-

(a). The trial Court will decide the Regular Civil Suit No.167/2000, if not decided already, as expeditiously as possible and preferably within a period of one year from the date of this Order.

(b). Ad-interim order passed by this Court in terms of prayer clauses (c) and (d), as aforestated, shall remain operative till the disposal of suit.

(c). The trial Court shall decide the suit on merits in accordance with law and uninfluenced by the observations made in the orders in the instant proceedings arising from Exhibit 5 -Application.

. Rule, accordingly, stands disposed of.

(D.B. BHOSALE, J.)